

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of the Commission's Policies and)	IB Docket No. 06-160
Rules for Processing Applications in the)	
Direct Broadcast Satellite Service)	
)	

COMMENTS OF AT&T SERVICES, INC.

AT&T Services, Inc. ("AT&T"), on behalf of DIRECTV Enterprises LLC ("DIRECTV") and its other affiliates, hereby submits comments on the *Second Notice of Proposed Rulemaking* ("*Second NPRM*") in the above-referenced proceeding in which the Federal Communications Commission ("FCC" or "Commission") seeks comment on proposals to revise its rules governing direct broadcast satellite ("DBS") services and lift the freeze on new requests to provide DBS service.¹

DBS providers today serve nearly 30 million subscribers across the country, providing high-quality and cutting-edge services that have been spurring competition in the video programming services market for decades. Accordingly, AT&T agrees with the Commission that a key objective in this proceeding is to "protect existing consumers of satellite television from harmful interference to their service,"² and appreciates the Commission's focus on this issue. To this end, if the Commission goes forward with revising its DBS rules and accepting new DBS applications, it should adopt a more stringent requirement on DBS systems at reduced orbital

¹ *Amendment of the Commission's Policies and Rules for Processing Applications in the Direct Broadcast Satellite Service*, Second Notice of Proposed Rulemaking, IB Docket No. 06-160, FCC 18-157 (2018).

² *Id.* ¶ 1.

spacing (“tweeners”) than that proposed in the *Second NPRM*. Specifically, AT&T urges the Commission to condition any new DBS licenses that are at reduced orbital spacing on coordination with all DBS operators within six degrees, instead of requiring operator consent only from affected operators as determined by ITU criteria.

Finally, AT&T supports the proposal to extend the license term for non-broadcast DBS space stations to 15 years and urges the Commission to revise automatically the license terms of existing DBS satellites consistent with that proposal.

I. IT IS ESSENTIAL THAT ANY CHANGES TO THE DBS RULES PROTECT EXISTING DBS SERVICES FROM INTERFERENCE.

A. DBS Providers Are a Significant Competitive Force in the Market for Video Programming Services and Provide Valuable Services to Tens of Millions of Americans.

AT&T appreciates the Commission’s efforts to “align DBS processing procedures with our recently streamlined processing procedures for GSO fixed-satellite service (FSS) satellites and take into account changes in the regulations and provision of satellite communications services since the Commission last examined the licensing provisions for DBS over a decade ago.”³ However, AT&T emphasizes the importance of protecting existing DBS providers and customers from any harmful interference caused by new entrants into the DBS marketplace, a necessary objective that the Commission correctly recognizes.⁴

Protection of DBS services is critical because of the tremendous value that these services provide to consumers across the nation in the market for video services. AT&T’s subsidiary DIRECTV, one of the nation’s largest multichannel video programming distributors (“MVPD”)

³ *Second NPRM* ¶ 1.

⁴ *See id.* ¶¶ 1, 6, 11, 22, 30.

and the largest DBS provider,⁵ currently provides satellite services to more than 19.2 million subscribers, each of which relies on DIRECTV to access high-quality service and a wide variety of content.⁶ In total, more than 29.1 million subscribers today depend on DBS providers to access video services.⁷ Moreover, for rural and remote-area dwellers across the country who do not have access to cable or other wireline networks, DBS is the only MVPD offering available.⁸

DBS providers' participation in the market benefits not only the tens of millions of subscribers of DBS services, but all consumers of video programming services. This is because DIRECTV, and DBS services more generally, are a key driver of competition in the market for video programming, offering consumers an alternative to cable or wireline service across the country and compelling all MVPD providers to offer lower prices and better services. Indeed, DIRECTV has been a force for innovation and competition in the video programming market since its inception. In this role, DIRECTV has given consumers access to an unparalleled level of high-quality, cutting-edge service offerings. For instance, DIRECTV pioneered the development of MPEG-4 video compression, which has allowed for the delivery of HD programming in quantities

⁵ See Leichtman Research Group, *Research Notes* at 5 (4Q 2018), <https://www.leichtmanresearch.com/wp-content/uploads/2019/01/LRG-Research-Notes-4Q-2018.pdf>.

⁶ AT&T Investor Briefing, Q4 2018 AT&T Earnings, at 25 (2019), https://investors.att.com/~media/Files/A/ATT-IR/financial-reports/quarterly-earnings/2018/4q-2018/IB_4Q2018.pdf.

⁷ *Id.*; DISH Network Corporation, Form 10-k, at 1 (2019) (reporting 9.905 million DISH TV subscribers as of December 31, 2018).

⁸ *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Eighteenth Report, 32 FCC Rcd 568, ¶ 21, Table III.A.2 (2017) (estimating that as of 2015, 1.3 million housing units had access only to DBS MVPDs and did not have access to a cable provider).

previously thought to be infeasible given spectrum limitations.⁹ DIRECTV also led the way in developing advanced DVR and on-demand services, including the ability to record five shows in HD simultaneously, the provision of show recommendations based on a subscriber's unique tastes, "whole home" services that enable consumers to watch content seamlessly across all televisions in the household, and the ability to program DVRs from cell phones, tablets, and computers.¹⁰ DIRECTV likewise has been a market leader in the provision of sports coverage, bringing consumers an unparalleled number of sports channels and comprehensive packages, including NFL Sunday Ticket and the "Red Zone" channel, among others.¹¹

DIRECTV's innovation-driven approach to video programming services continues to inspire new products and services in the marketplace as technology continues to evolve. For example, DIRECTV offers streaming apps to complement residential satellite services, thereby enabling its subscribers to access live and On-Demand DIRECTV content anywhere.¹² The mobile nature of today's consumers has also spurred the development of satellite services such as transportable and airborne services¹³ that are even more vulnerable to interference than traditional direct-to-home ("DTH") services and thus further merit careful consideration as the Commission evaluates the proposed revisions to its DBS service rules.

⁹ Comments of DIRECTV, LLC, MB Docket No. 14-16, at 2-3 (Mar. 21, 2014) (providing input for the FCC's Eighteenth Report to Congress on the Status of Competition in the Market for the Delivery of Video Programming).

¹⁰ *Id.* at 4-5.

¹¹ *Id.* at 8.

¹² *Id.* at 5-6; *see also* Comments of AT&T, MB Docket No. 16-42, CS Docket No. 97-80, at 6-7 (Apr. 22, 2016); "About DIRECTV: The DIRECTV App," <https://www.att.com/directv/experience/watch-directv-app.html>.

¹³ *See, e.g.*, "DIRECTV for Travelers," <https://www.directv.com/DTVAPP/content/contentPage.jsp?assetId=P6730097>.

In short, DIRECTV's DBS service has been since its inception and continues to be today a key catalyst for competition in the video programming market. As the Commission evaluates its proposal to lift the freeze on DBS licensing, it is essential that the licensing regime adequately protect the tens of millions of consumers across the U.S. that rely on incumbent DBS services from harmful interference to their service.

B. Should the Commission Move Forward with Its Proposals to Revise the DBS Licensing Regime and Lift the DBS Licensing Freeze, It Should Define a Stricter Requirement on Tweener Applications to Ensure Adequate Protection from Interference for DBS Incumbents.

In the event the Commission moves forward with its proposal to revise its rules governing DBS services and accept applications for new DBS systems, the proposed rules do not go far enough to ensure that tweener systems are compatible with existing DBS operations. The Commission should adopt a blanket coordination requirement to ensure that new "tweener" DBS systems authorized are compatible with existing systems, even if such systems would not trigger the need for coordination pursuant to ITU criteria.

Nine-degree spacing for DBS systems was designed to allow for direct-to-home ("DTH") service with small, relatively cheaper dishes that can be installed on residential customer premises.¹⁴ These rules offered a reasonable cost structure that unleashed, and still supports, competitive video subscription services to millions of Americans. That same flexibility, however, results in a finely-tuned system that could be disrupted if new systems entering at reduced spacing are not carefully designed to be compatible with existing systems.

¹⁴ See, e.g., *International Bureau Seeks Comment on Proposals to Permit Reducing Orbital Spacings Between U.S. Direct Broadcast Satellites*, Public Notice, 18 FCC Rcd 25683, ¶ 1 (2003).

The Commission proposes to require new DBS applicants seeking authorization for systems at reduced spacing to provide either: (i) a demonstration that the system is compatible with other U.S. ITU filings under Appendices 30 and 30A, or (ii) for any U.S. filings that are affected pursuant to ITU criteria, letters of consent from the affected operators.¹⁵ AT&T is concerned that requiring coordination with nearby operators only when ITU criteria determines the operator is affected (i.e., when the interference protection criteria in Annex 1 of Appendix 30 of the Radio Regulations is exceeded) will not adequately ensure protection of and compatibility with incumbent DBS systems.

The ITU criteria were established in 1983 pursuant to a specific band plan. The satellite industry has undergone tremendous technological transformation since the ITU's regulations were put in place. Uncertainty of future constellation and spacecraft designs could adversely impact existing DBS services in ways that may not be accounted for under the ITU's current reference interference environment. Modern DBS systems have undergone technological advances including both the satellites delivering the services and the user terminals receiving the services. These advances include digital modulation and coding schemes that impact the transmission characteristics of the signals carrying the broadcast content, including the signal-to-noise and carrier-to-interference ratio requirements. The existing ITU-R planned band sharing rules were created under assumptions of legacy values for these requirements that may no longer be applicable. These legacy sharing rules also did not contemplate user terminals on transportable platforms that may involve customers orienting their DBS antennas without the benefit of professional installation. Accordingly, it is possible that a tweener system may be designed that

¹⁵ See *Second NPRM* ¶ 31; *id.* at Appendix A (proposed Section 25.140(a)(1)(vi)).

would degrade the existing operations of incumbent DBS providers without triggering the ITU criteria.

Moreover, there are other scenarios where relying solely on ITU coordination triggers could have unintended negative consequences for incumbent DBS providers. For instance, if a new DBS applicant seeking a “tweener” orbital slot proposed to deploy a service that actually afforded the need for much lower satellite signal strength (which is possible with evolving satellite and user terminal technologies), that proposed satellite signal would not trigger the ITU interference threshold. However, because the user terminals associated with this new satellite service would be more sensitive to interference from legacy DBS satellites, the new operator could leverage that situation to constrain the incumbent providers if they make any modifications to their service (e.g., modifying their orbital position or replacing an existing satellite with a new one).

In light of the potential harms posed by tweener systems and the limitations of using ITU rules to mitigate those harms, AT&T urges the Commission to condition any new tweener DBS licenses on coordination with all licenses within six orbital degrees. Such a requirement would offer a level of protection to both existing and new systems by identifying potential coexistence problems before major investments are made and while there is still time to adjust. Moreover, a coordination requirement is eminently feasible: coordination among different systems is a longstanding, effective tool used by both commercial and government systems to coexist. There is no reason to believe that relying on coordination agreements in this case would not also be a success. Indeed, the Commission acknowledges in the *Second NPRM* that “[FCC] rules already allow us to consider requests for new DBS service at reduced orbital spacings if entities making such a request can coordinate their proposed operations with other U.S. DBS operators and secure

agreements with other operators already having assignments in the ITU Region 2 Plans[.]”¹⁶ Accordingly, a blanket coordination requirement would ensure that all new systems are appropriately compatible without adding a significant burden for new DBS applicants, and therefore should be adopted if the Commission chooses to begin accepting new DBS applications.

II. THE COMMISSION SHOULD ADOPT ITS PROPOSAL TO EXTEND THE LICENSE TERM FOR NON-BROADCAST DBS SPACE STATIONS.

Finally, AT&T supports the Commission’s proposal to extend DBS space station license terms from 10 to 15 years.¹⁷ AT&T agrees with the Commission that “DBS satellites generally are able to provide service beyond their initial 10-year license terms,” and that adopting this proposal would “make DBS space station license terms consistent with the terms of most other space stations.”¹⁸

Further, the Commission should automatically apply the license term extension to existing DBS licenses. Such an approach would be consistent with that used by the Commission in the *Space Station Reform* proceeding. There, the Commission extended licenses for non-DBS space stations from 10 to 15 years.¹⁹ Finding that the burden on the Commission and licensees would be minimal, the Commission automatically modified the extension terms of all space station licensees by five years from the date the satellite was successfully placed into orbit.²⁰ Because, as the Commission rightly recognizes, “[t]here are no technical or engineering considerations that

¹⁶ *Second NPRM* ¶ 9.

¹⁷ *Id.* ¶ 19.

¹⁸ *Id.*

¹⁹ *Amendment of the Commission’s Space Station Licensing Rules and Policies*, Notice of Proposed Rulemaking and First Report and Order, 17 FCC Rcd 3847, ¶ 143 (2002).

²⁰ *Amendment of the Commission’s Space Station Licensing Rules and Policies*, First Report and Order and Further Notice of Proposed Rulemaking in IB Docket No. 02-34, and First Report and Order in IB Docket No. 02-54, 18 FCC Rcd 10760, ¶ 266 (2003).

render the operating life of a DBS satellite shorter than the operating life of a non-DBS satellite, such as those used to provide GSO FSS,”²¹ and because automatic modification of license terms would impose a similarly minimal burden on the FCC and licensees, the Commission should implement the proposed DBS license term extension consistent with the approach used to extend GSO FSS license terms and automatically apply the extension.

III. CONCLUSION

AT&T respectfully urges the Commission to consider its proposals in the *Second NPRM* consistent with the comments provided herein.

Respectfully Submitted,

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²¹ *Second NPRM* ¶ 19.